

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

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|---------------------------|---|---------------------------|
| QUINN BASS, et al., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Case No. 4:19-CV-00282-RK |
| |) | |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Defendant. |) | |

**DEFENDANT’S MOTION TO DISMISS
FOR LACK OF SUBJECT MATTER JURISDICTION**

Pursuant to Fed. R. Civ. P. 12(b)(1), Defendant United States of America respectfully requests the Court to dismiss the Complaint (Doc. No. 1) because the Court lacks jurisdiction for four independent reasons. If any of the following four conditions, exclusions, or exceptions applies, then the United States’ sovereign immunity has not been waived.

Jurisdiction exists if, and only if, the Plaintiffs can overcome all four jurisdictional hurdles. First, the Federal Tort Claims Act (“FTCA”) waiver of the United States’ sovereign immunity does not extend to claims based on strict liability. Second, the tort claims asserted by the Plaintiffs are barred by the discretionary function exception to the FTCA, 28 U.S.C. § 2680(a). Third, and alternatively, the Court lacks subject matter jurisdiction because the FTCA does not waive sovereign immunity for negligent acts by contractors of the United States, 28 U.S.C. § 2671. Finally, the Court lacks subject matter jurisdiction because the Plaintiffs fail to allege tortious conduct that would be imposed upon a private person engaged in like conduct under Missouri law.

Respectfully submitted,

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UNITED STATES OF AMERICA

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of August, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to all counsel of record.

/s/ Matthew N. Sparks
Assistant United States Attorney